

## Chapter 735 ZONING -- OTHER DISTRICTS \*

### ARTICLE IV. GRAVEL-SAND-BORROW \*

*\* Editor's note: This article consists of the gravel, sand, borrow districts ordinance, adopted Feb. 8, 1966. Future amendments will be indicated by parenthetical history notes following the amended sections.*

#### **Sec. 735-400. Establishment of official zoning map; establishment of gravel-sand-borrow districts.**

- (a) **Purpose.** It is the purpose of this article to establish reasonable and uniform limitations, safeguards and controls in Marion County, Indiana, for the further production of sand, gravel, borrow, and other mineral or earthen materials. Restrictive limitations, safeguards and controls are deemed necessary in the public interest to effect practices which will provide for a more economic production of sand, gravel, borrow, and other mineral or earthen materials, and which will also take into consideration the surface use of the land as such uses are indicated by the value and character of the existing improvements in the districts where such production is hereinafter permitted, the desirability of the area for residential or other uses, or any other factor directly relating to the public health, comfort, safety and general welfare in gravel-sand-borrow districts.
- (b) **Establishment of the official zoning map.**
- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
  - (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The director of the department of metropolitan development shall be the custodian of the official zoning map.
  - (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
  - (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.
- (c) **Establishment of gravel-sand-borrow districts.** Certain lands, as shown on the official zoning map, containing deposits of gravel, sand, borrow, and other mineral or earthen materials, shall be given a secondary zoning classification of "gravel-sand-borrow district" and be designated "GSB Gravel-Sand-Borrow District" on the legend of the official zoning map. In a gravel-sand-borrow district designated GSB, no structure or land shall be used and no building, structure, sand, gravel or borrow plant, or sand, gravel or borrow equipment shall hereafter be located, unless otherwise provided herein except for one (1) or more of the following uses:
- (1) Any use permitted in the primary zoning district in which such gravel-sand-borrow district is situated.
  - (2) Mining, quarrying, excavating of sand, gravel, borrow, or other mineral or earthen materials.
  - (3) Location, for a period not to exceed five (5) years, of temporary processing plants for the processing and stockpiling of sand, gravel, borrow, or other mineral or earthen materials, mined on the premises.
- Provided, however, that permanent plants for the processing and stockpiling of gravel, sand, borrow, and other mineral or earthen materials, mined on the premises or elsewhere, shall not be permitted in any gravel-sand-borrow district except one (1) which

has a Special Use District (23) primary zoning classification. It is further provided that changes in the primary zoning classification of areas comprising, in whole or in part, a gravel-sand-borrow district shall not affect such gravel-sand-borrow district as herein established. It is further provided that gravel-sand-borrow districts as herein established shall be enlarged or diminished only by ordinance.

- (d) **Borrow excavation pursuant to state highway department contract.** Provided, however, that nothing in this article shall prevent the excavating of borrow or other earthen materials in any zoning district of Marion County pursuant to a contract therefor with the Indiana State Highway Department, as a part of a state or federal highway project, provided the following requirements have been met prior to the beginning of such excavation:
- (1) A bond for such excavation shall have been filed with the Indiana State Highway Department in accordance with all such department's applicable requirements, specifications and performance standards of excavation, operation and restoration.
  - (2) A copy of such bond shall be filed with the Department of Metropolitan Development, together with a site plan, area map, and legal description of the land to be included in such borrow excavation.
  - (3) A permit for such borrow excavation shall be obtained from the Department of Metropolitan Development. Such permit shall be issued upon the filing of the bond, site plan, area map, and legal description.

(G.O. 31, 2001, § 8)

#### **Sec. 735-401. Requirements and regulations.**

- (a) **No gravel, sand, borrow, or other mineral or earthen materials shall hereafter be mined in any part of Marion County, to which this article applies, unless a permit for such work has been issued by the Metropolitan Planning Department.**
- (b) **Applications for the permits mentioned in subparagraph (a) of this section shall be made in writing and shall be accompanied by a corporate surety bond for the faithful performance of all of the applicable requirements set out in this section.** Such bond shall be in the amount of five hundred dollars (\$500.00) per acre, with a minimum of one thousand dollars (\$1,000.00) per operation and shall be with surety approved by the Metropolitan Plan Commission. Such bond shall specify the time for the completion of all of the applicable requirements of this section. Such permit shall be renewed for like periods provided an application accompanied by bond is filed within six (6) months before the expiration date, with the Metropolitan Planning Department as provided herein in case of original application, provided the applicant is carrying out the requirements of his permit in good faith and there exists no judicial determination at such time to the contrary.
- (c) **All equipment used for the production of sand, gravel, borrow, and other mineral or earthen materials shall be constructed, maintained and operated in such a manner as to eliminate, as far as practicable, noises, vibration or dust which are injurious or annoying to persons living in the vicinity.**
- (d) **No production of sand, gravel, borrow, or other mineral or earthen materials shall be permitted nearer than fifty (50) feet to the boundary of a district designated gravel-sand-borrow district, nor shall such production be permitted nearer than fifty (50) feet to the boundary of an adjoining property within any such gravel-sand-borrow district unless the written consent of the owner in fee of such adjoining property is first secured.**
- (e) **No excavation shall be made closer than one hundred fifty (150) feet from the right-of-way line of any existing or platted street, road or highway, excepting mining of sand, gravel,**

**borrow, and other mineral or earthen materials may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing elevation of the adjoining and existing or platted street, road or highway.**

- (f) All excavation must either be made to a water-producing depth, such depth to be not less than five (5) feet measured from the low water mark, or graded or back-filled with nonnoxious, nonflammable and noncombustible solids to assure the following:**
  - (1) That the excavated areas will not collect and permit to remain therein stagnant water.**
  - (2) That the surface of such area shall be graded or back-filled as necessary so as to reduce the peaks and depressions thereof to a surface which results in a gently rolling topography, and minimizes erosion due to rainfall, and which will be in substantial conformity to the land area immediately surrounding.**
  - (3) To plant trees, shrubs, legumes or grasses upon the parts of such area where revegetation is possible.**
- (g) The banks of all excavations not back-filled as provided in subsection (f) above shall be sloped to the water line at a slope which shall not be less than one and one-half (1 1/2) feet horizontal to one (1) foot vertical, and such bank shall be sodded or surfaced with a maximum of six (6) inches of suitable soil, and the same shall be seeded with grass seed.**
- (h) Whenever the permit referred to in subsection (a) above shall have expired or whenever any gravel, sand, borrow, or other mineral or earthen materials pits or excavation shall have been abandoned for any period exceeding twelve (12) consecutive months, then all plants, buildings, structures (except fences), stockpiles and equipment shall be entirely removed from such property.**